



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Marsha S. McLaughlin, Director

www.co.ho.md.us
FAX 410-313-3467
TDD 410-313-2323

March 15, 2007

TECHNICAL STAFF REPORT

*Petition Accepted on February 9, 2007
Planning Board Meeting of March 29, 2007
County Council Hearing to be scheduled*

Case No./Petitioner: ZRA-81 – Courtney Watson, Councilperson, et. al.

Request: Zoning Regulation Amendment to amend Section 131.N.48. of the Zoning Regulations to establish that in the R-12 District, the minimum lot size for a Two-family Dwelling is 20,000 square feet.

Department of Planning and Zoning Recommendation:

DENIAL

I. DESCRIPTION OF PROPOSAL

The Petitioners propose ONE amendment to the Zoning Regulations. The proposed amendment is generally described as follows:

1. The amendment is to Section 131.N.48., the Conditional Use category which includes the criteria for Two-family Dwellings, Accessory Apartments, and Age-restricted Multi-plex Dwellings. This amendment would add a provision whereby a lot in the R-12 District could only be eligible for this Conditional Use category if it is 20,000 square feet or larger.

The subsections proposed to be amended and the amendment text is as follows (Text in CAPITALS indicates text to be added. Text in [[brackets]] indicates text to be deleted):

1. Section 131.N.48.a.:

A conditional use may be granted for two-family dwellings, accessory apartments or age restricted multi-plex dwellings in the following districts, provided that any new structures or additions will be designed to be compatible in scale and character with the surrounding residential neighborhood. Compatibility of character may be in architectural style, materials or details. Compatibility shall be demonstrated by architectural elevations or renderings submitted with the petition.

- a. Two-family dwellings: in the RC, RR, R-ED, R-20 or R-12 Districts. THE MINIMUM LOT SIZE SHALL BE AT LEAST 20,000 SQUARE FEET FOR A TWO FAMILY DWELLING STRUCTURE IN THE R-12 ZONING DISTRICT.

II. EXISTING REGULATIONS

- # **The 1977 Zoning Regulations established two-family dwellings as a Special Exception category which could be granted in the R, R-20, or R-12 Districts, either for the conversion of an existing single-family dwelling or the construction of a new two-family dwelling “...on an individual site.” The implication is that then, the two-family dwelling use category was intended to be only for one building on one lot at one time. This regulation remained unchanged in the 1985 Zoning Regulations.**
- # **The 1993 Zoning Regulations first established the two-family dwelling Special Exception category in its overall current form, where such uses are allowed in the RC, RR, R-20 or R-12 Districts, and there was no mention or any distinction between conversions or new construction or location on an individual site. This blurred the original intentions of previous versions of the Zoning Regulations.**
- # **Since the use category was first established there has never been any minimum lot size requirement to obtain Conditional Use approval for a Two-family Dwelling.**

It is unknown why having a minimum lot size was never a consideration, because one would think that could be an important factor, particularly for very small lots. One conjecture is that when the use category was first created, the main intention was to allow the conversion of existing dwellings, which would already be on an existing lot. It may have been thought that as long as any new construction complied with the setback requirements, lot size was not an issue.

III. BACKGROUND INFORMATION

A. Scope of Proposed Amendments

- # **As proposed, the amendment would affect only the R-12 District, making R-12 properties of under 20,000 square feet ineligible to apply for any Conditional use for a Two-family Dwelling.**

B. Agency Comments

- # **There have been no comments received to date from any agencies concerning this Zoning Regulation Amendment proposal.**

IV. EVALUATIONS AND CONCLUSIONS

A. Relation to the General Plan

- # **Although it is not in support of the amendment for reasons expressed below, the Department of Planning and Zoning must concur with the Petitioners that ZRA-81 is in general harmony with the Community Conservation and Enhancement Policy No. 5.7 to “Ensure infill development will be compatible with existing neighborhoods.”**

As mentioned by the Petitioners in the stated reasons for the amendments, the current regulations do allow a density increase on relatively small R-12 lots, and this could be very incompatible with existing neighborhoods.

B. Relation to the Zoning Regulations

- # **The amendment is also generally compatible with the Legislative Intent of the Zoning Regulations to: “... promote the most beneficial relationship between the uses of land and structures, and the road system which serves these uses, having particular regard for the potential amount and intensity of such land and structure uses in relationship to the traffic capacity of the road system, so as to avoid congestion in the streets and roadways, and to promote safe and convenient vehicular and pedestrian traffic movements appropriate to the various uses of land and structures throughout the County.”**

C. Other Issues

- # **This amendment is not compatible with the other amendments proposed by the same Petitioners in ZRA-82 because the ZRA-82 amendments propose the complete elimination of the R-12 District from being eligible for the Two-family Dwelling Conditional Use category, while this amendment would retain the eligibility for that district for lots greater than 20,000 square feet.**

For the reasons stated in the Technical Staff Report for ZRA-82, the Department of Planning and Zoning supports and recommends approval for ZRA-82. Based on this recommendation for approval of ZRA-82, the Department cannot recommend approval for ZRA-81.

In particular, as expressed in the Technical Staff Report for ZRA-82, the accessory apartment dwelling process is now viewed as the best method of providing subordinate, accessory housing units with appropriate controls that better ensure neighborhood compatibility and that prevent potential misuse of the Two-family Dwelling category to unduly increase residential densities in existing neighborhoods. So the Department intends to amend the Zoning Regulations to delete the Two-family Dwelling category entirely. ZRA-82 would be an interim step, but it should be supported at this time.

- # **If the ZRA-81 approach is preferred by the Planning Board and County Council, instead of ZRA-82, it is then recommended that lots under 20,000 square feet in the R-20 and R-ED District also be made ineligible for the Two-family Dwelling category.**

There are a considerable number of existing lots in the R-20 and R-ED districts that have lot areas below 20,000 square feet. If the test for eligibility in the R-12 District is 20,000 square feet is considered appropriate, that test should logically apply to the R-20 and R-ED districts as well.

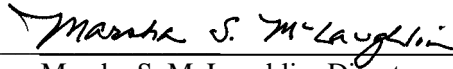
CASE NO.: ZRA-81

Page 4

PETITIONER: Courtney Watson, Councilperson, et. al.

V. RECOMMENDATION *DENIAL*

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA-81 be **DENIED**.



Marsha S. McLaughlin, Director

03/15/07

Date

MM/JRL/jrl

NOTE: The file on this case is available for review at the Public Service Counter in the Department of Planning and Zoning.